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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,650	03/09/2004	Cindy J. Natay-Curley	001	2202

7590 05/17/2005

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TUCSON, AZ 85746-2322

EXAMINER
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PICKETT, JOHN G

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/796,650

Applicant(s)

NATAY-CURLEY, CINDY J.

Examiner

Gregory Pickett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/9/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

1. This application claims priority to US Provisional 60/453,474. However, the filing date presented in the first line of the specification (March 8, 2004) differs from the records of the USPTO. USPTO records indicate a filing date of 10 March 2003 for 60/453,474. Appropriate correction is required.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Reference character 10.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

3. Claims 1, 14, and 18 contain periods within the body of the claims. Each claim is to be limited to a single sentence.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is indefinite as to whether the applicant is claiming an article or method. The preamble of the claim indicates an article, while the body of the claim appears to be claiming uses for the article.

Claim 1 is narrative in form and replete with indefinite and functional or operational language.

Claims 1, 14, and 18 refer to structures in numerous locations that lack proper antecedent basis in the claim. For example, in lines 6 and 7 of claim 1, the claim refers to first and second members in addition to a chevron configuration, these structures have not been previously set forth in the claim.

Claims 2-13 are dependent on claim 1 and are rejected for the above reason.

Claims 15-17 are dependent on claim 14 and are rejected for the above reason.

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirsch (US 4,358,015) in view of Banowitz (US 2,741,559).

Regarding claims 14 and 18, Hirsch discloses a sterilization bag with a bottom, heat-sealed chevron configuration **15**, liner strip **102**, adhesive strip **17**, additional adhesive (inner coating on adhesive liner **102**), transparent plastic top member **10**, paper bottom member **11**, a flexible top opening **19**, inward seal area **16**, and three sided heat seal **12**. Hirsch functions as claimed and merely lacks the dividing heat seal separating the pouch into large and small compartments.

Banowitz discloses a dividing heat seal **12** for dividing a bag into two compartments of differing size (see for example, Figure 1 and Col. 2, lines 23-30). It

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would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the bag of Hirsch with a dividing heat seal as taught by Banowitz in order to divide the bag into two compartments of differing size.

As to claims 15-17, heat seal **12** of Hirsch is smooth finishing at top and bottom (see Hirsch, Figure 4).

Regarding claim 1, the bag of Hirsch-Banowitz, as applied to claims 14 and 18 above, discloses a means for allowing to hold instruments (space between webs **10 & 11**), means for protecting the adhesive strip (Hirsch **102**), means for dividing (Banowitz **12**), means for using plastic material (Hirsch **10**), means for attaching the liner strip (Hirsch **18**), means for adhesive coating (Hirsch **17**), means for allowing insertion (Hirsch **19**), means for sterilizing dental instrument (large compartment formed in Hirsch after modification with the dividing seal of Banowitz), means for sterilizing dental mirrors (small compartment formed in Hirsch after modification with the dividing seal of Banowitz), means for allows adhesion (Hirsch, inner coating of liner strip **102**), means for creating a space (Hirsch **16**), and means for providing an airtight, sterile environment (Hirsch **12**).

As to claim 2, Hirsch discloses bottom chevron **15**.

As to claim 3, Hirsch discloses liner strip **102**.

As to claim 4, Banowitz discloses one, smooth finish, dividing heat seal **12**.

As to claim 5, Hirsch discloses top member **10**.

As to claim 6, Hirsch discloses portion **18** of bottom member **11**.

As to claim 7, Hirsch discloses adhesive strip **17**.

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As to claim 8, Hirsch discloses flexible top opening **19**.

As to claims 9 and 10, Hirsch-Banowitz discloses compartments of differing sizes that would be rectangular in shape insofar as defined, disclosed, and shown by the applicant.

As to claim 11, Hirsch discloses inner coating of liner strip **102** (Col. 5, lines 9-11).

As to claim 12, Hirsch discloses inward seal area **16**.

As to claim 13, Hirsch discloses three sided seal **12**.

### ***Conclusion***


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

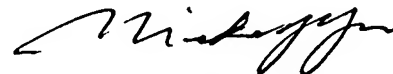
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Greg Pickett  
Examiner  
12 May 2005

  
Mickey Yu  
Supervisory Patent Examiner  
Group 3700